

**BEFORE THE BOARD OF DENTAL EXAMINERS OF THE STATE OF IOWA**

**IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST**

**DAVID A. HALL, D.D.S, RESPONDENT**

**FILE NO. 02-204**

**EMERGENCY ADJUDICATIVE ORDER**

COMES NOW the Iowa Board of Dental Examiners, and finds that on October 8, 2002, it was presented with evidence which establishes that Respondent's continued practice of dentistry constitutes an immediate danger to the public health, safety, and welfare. The Board has conducted a full investigation of this matter. A summary of the evidence obtained in that investigation is as follows:

**FINDINGS OF FACT**

1. Respondent is a general dentist engaged in the practice of dentistry in Cedar Rapids, Iowa.
2. On January 17, 2002, the Board filed a Statement of Charges against Respondent for numerous violations relating to his use of anti-anxiety pre-medications and conscious sedation medications. The Board concurrently filed an Emergency Adjudicative Order summarily prohibiting Respondent from prescribing, administering, or dispensing any drugs or the purposes of anti-anxiety or sedation.
3. On April 25, 2002, the Board and Respondent entered into a Stipulation and Consent Order (Order) in which Respondent's license was "permanently restricted from prescribing, administering, or dispensing any and all medications or

substances for the purposes of achieving any form of sedation, including anti-anxiety pre-medication, conscious sedation, and deep sedation/general anesthesia." Respondent could only resume anti-anxiety pre-medication "upon prior written approval of the Board." Respondent could only resume use of any form of sedation "if he obtains the appropriate permit required by Board rules."

4. In the Order, Respondent was also placed on probation for five years subject to a number of terms, which include the following:
  - (a) Respondent agreed not to administer or dispense any controlled substances.
  - (b) Respondent agreed to, within thirty days of the date of the Order, enter into a Board-approved practice monitoring agreement with another dentist for monitoring of his prescribing practices.
5. Since the date the Order was filed, the Board has received information that:
  - (a) Respondent attempted to evade the Order's prohibition against prescribing, administering, or dispensing any medications for the purposes of achieving anti-anxiety pre-medications or achieving any form of sedation by referring at least three patients to medical doctors. Those patients then requested the medical doctors write a prescription for the controlled substances Valium and/or Demerol in amounts requested by Respondent for use in upcoming dental procedures. The medications were for anti-anxiety and/or conscious sedation purposes, and the medical doctors who prescribed the medications understood they were to be administered and/or dispensed to the patients by Respondent in conjunction with their dental procedures.

- (b) Respondent sought to administer and/or dispense the controlled substances Demerol and Valium in combination, or the controlled substance Valium alone, in amounts that far exceed the appropriate dosages for anti-anxiety pre-medication and in amounts that could achieve a level of conscious sedation.
- (c) Respondent made misleading, deceptive, untrue, or fraudulent statements when he advised the medical doctors and at least one patient the law had changed, and now prohibited dentists from prescribing medications for sedation purposes. Respondent failed to advise the medical doctors or the patient that the law had not changed, but that instead he cannot prescribe those medications for anti-anxiety or sedation purposes because of formal disciplinary action taken by the Board.
- (d) Respondent has administered and/or dispensed medications for the purposes of achieving anti-anxiety pre-medication without written approval of the Board, in violation of the Stipulation and Consent Order.
- (e) Respondent has administered and/or dispensed medications for the purposes of achieving conscious sedation without obtaining the appropriate permit required by 650 Iowa Administrative Code 29.2, and in violation of the Stipulation and Consent Order.
- (f) Respondent cannot use nitrous oxide under the Stipulation and Consent Order without written approval from the Board. Respondent requested permission to resume use of nitrous oxide, but in a letter dated September 3,

2002, the Board denied that request. Respondent administered nitrous oxide to at least one patient after receipt of that letter.

- (g) Respondent has administered and/or dispensed controlled substances to at least three patients, in violation of the Stipulation and Consent Order.
- (h) Respondent has failed to enter into a practice monitoring agreement for monitoring of his prescribing practices, in violation of the Stipulation and Consent Order.

6. Dentists licensed in Iowa cannot administer conscious sedation until they have obtained a conscious sedation permit from the Board. 650 IAC 29.2(2) Specialized education, training, and examination requirements must be met before a conscious sedation permit may be issued. 650 IAC 29.4
7. A dentist utilizing conscious sedation is required by Board rules to maintain a properly equipped facility to safeguard the public. The facility shall maintain and the dentist shall be trained on the following equipment: anesthesia or analgesia machine, EKG monitor, positive pressure oxygen, suction, laryngoscope and blades, endotracheal tubes, magill forceps, oral airways, stethoscope, blood pressure monitoring device, pulse oximeter, emergency drugs and defibrillator. 650 IAC 29.4(3)
8. Respondent does not hold a permit to administer conscious sedation.
9. Respondent does not have the required equipment in his facility to ensure that the health and safety of the public is protected.
10. Respondent failed in at least three cases to properly record in patient records that medications had been prescribed to these patients by medical doctors at

Respondent's request for anti-anxiety and/or conscious sedation purposes related to their dental procedures.

11. It is the opinion of the medical doctors that Demerol is not an appropriate medication for anti-anxiety pre-medication. It is the opinion of Board consultants and the medical doctors that the amount of Valium Respondent is recommending and/or using is well beyond anxiety control and could constitute conscious sedation. Use of these drugs in the amount recommended and in the manner intended by Respondent is inappropriate and could result in serious harm to patients.
12. Board consultants have previously expressed concern as to how Respondent would manage an emergency. Further, the consultants have expressed concern that Respondent has no crash cart, no defibrillator, and no means of airway control if respiratory depression became acute.
13. Respondent was interviewed by the Board's investigator regarding this matter, and initially denied referring patients to medical doctors for medication, and denied speaking to those medical doctors regarding those patients. Respondent then stated his wife, who is a nurse and Respondent's dental assistant, was responsible for such referrals, while he tries to stay at "arms length."
14. Respondent spoke directly to at least two patients and one medical doctor regarding his referrals to medical doctors for medication for anti-anxiety pre-medication or sedation purposes.
15. Respondent has repeatedly stated since the date the Stipulation and Consent Order was filed that he has not used nitrous oxide. In fact, Respondent has used nitrous oxide on at least one occasion since the date of that Order.

## **CONCLUSIONS OF LAW**

16. The facts set forth above establish that Respondent appears to have violated numerous statutes and Board rules, as set forth in Counts I through VIII of the Statement of Charges which has been filed concurrently with this Emergency Adjudicative Order.
17. The Board concludes on the basis of the facts set forth above that this investigation has been sufficient to ensure that the Board is proceeding on the basis of reliable information. Medical doctors and patients have been interviewed, and patient records have been obtained pursuant to subpoena. All this investigative information has been reviewed by the entire Board as well as by Board consultants with expertise in the area of conscious sedation. Respondent has been interviewed and allowed an opportunity to respond to the allegations against him.
18. The facts set forth above establish that Respondent's continued practice of dentistry would pose an immediate danger to the public health, safety, or welfare. Absent appropriate education, training, and certification, Respondent is not qualified to administer conscious sedation to patients. Evidence in this case and the prior case raise serious competency concerns regarding the types and amounts of controlled substances Respondent is using for anti-anxiety and/or conscious sedation purposes. In the event anti-anxiety or conscious sedation medications are not administered in a competent manner and in a safe environment, patients could suffer serious injury or death. The Board has evidence that Respondent has been prescribing, administering, and/or dispensing controlled substances for anti-anxiety and/or conscious sedation after the Stipulation and Consent Order was filed, and

that Respondent has patients scheduled in the immediate future for whom controlled substances have been prescribed and will be administered and/or dispensed for anti-anxiety and/or conscious sedation purposes.

19. Respondent cannot continue to engage in any aspect of dental practice without posing an immediate danger to the public health, safety or welfare. An Emergency Adjudicative Order was previously filed against Respondent on January 17, 2002, which summarily suspended Respondent's ability to prescribe, administer, or dispense all controlled or other substances for anti-anxiety or sedation purposes. Respondent entered into a Stipulation and Consent Agreement which prohibited him from the same activities. Respondent continues to use anti-anxiety pre-medication and conscious sedation not only for more serious procedures such as extractions, but for such routine dental procedures as placement of fillings and crowns. Despite having been previously disciplined for inappropriate prescribing of anti-anxiety pre-medications and for engaging in the practice of conscious sedation without the required permit, Respondent has continued to engage in these practices, evidencing a flagrant disregard for the laws governing the practice of dentistry and for the authority of this Board.
20. The imposition of monitoring requirements or other interim safeguards would not be sufficient to protect the public health, safety, or welfare. Respondent is not qualified by law to perform conscious sedation, and is also prohibited by the Stipulation and Consent Order from performing either conscious sedation or anti-anxiety pre-medication procedures. Furthermore, while Respondent was required to have a Board-approved practice monitor in place by May 25, 2002, to supervise his

prescribing practices, Respondent still does not have a practice monitor. Respondent has also been untruthful about the extent of his use of anti-anxiety and conscious sedation medications, and therefore the Board is unable to determine the full extent of his non-compliance with the law and the Stipulation and Consent Order. This makes it impossible for the Board to protect the public through monitoring or other interim safeguards.

21. The suspension of Respondent's dental license is necessary to avoid the immediate danger to the public discussed above.

### **ORDER**

**IT IS HEREBY ORDERED**, in accordance with Iowa Code Section 17A.18A (2001) and 650 IAC 51.30, that Respondent, David A. Hall, D.D.S., shall immediately cease and desist from the practice of dentistry. Respondent shall be notified immediately of this Order pursuant to 650 IAC 51.30(3). A hearing on this Emergency Adjudicative Order and the Statement of Charges, which have been filed concurrently with this Order, shall be held on October 29, 2002, at 9:00 a.m. The hearing will be held at the Board office, located at 400 S.W. 8th Street, Suite D, Des Moines, Iowa.

Date this 9<sup>th</sup> day of October, 2002.



LeRoy I. Strohman, D.D.S., Chairperson  
Iowa Board of Dental Examiners  
400 SW 8<sup>th</sup> Street  
Des Moines, IA 50309



cc: Theresa O'Connell Weeg  
Iowa Attorney General's Office  
2nd Floor Hoover Bldg.  
Des Moines, IA 50319

Raymond R. Stefani II  
GRAY, STEFANI & MITVALSKY, P.L.C.  
200 American Bldg.  
P.O. Box 456  
Cedar Rapids, IA 52406